

Division of Behavioral Health Services

Bureau of Compliance

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JANET NAPOLITANO, GOVERNOR
SUSAN GERARD, DIRECTOR

December 9, 2005

[T/RBHA CEO]

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Dear [T/RBHA CEO]:

As indicated in a letter to your agency dated October 18, 2005, the Department of Health Services/Division of Behavioral Health Services (ADHS/DBHS) has determined that State funds will be used to reimburse Medicare Part D cost sharing for behavioral health recipients who are:

- Medicare and Medicaid (Title XIX) eligible (dual eligibles) and;
- Non-Title XIX Medicare eligible and have been determined to have a serious mental illness (SMI).

Cost sharing for all other populations, including payment of any Medicare Part D cost sharing or any Medicare Part D excluded or non-covered drugs for non-Title XIX eligible, non-SMI behavioral health recipients is based on available funding as determined by the Tribal and Regional Behavioral Health Authority (T/RBHA).

The cost sharing to be paid with state funds could include any of the following:

- Premium
- Co-payment
- Co-insurance
- Deductible

Limited Income Subsidy

Behavioral health recipients who are dual eligible or are eligible for a Medicare Savings Program through the Arizona Health Care Cost Containment System (AHCCCS) to cover Medicare Part A and B cost sharing (QMB, SLMB or QI-1) are automatically eligible for the Limited Income Subsidy (LIS or “extra help”). The LIS program covers the majority of the Medicare Part D cost sharing on behalf of LIS eligible persons and provides payment directly to the person’s assigned Medicare Part D Plan. Behavioral health recipients determined ineligible for the LIS program will be responsible for substantially higher cost sharing.

The Department intends for each T/RBHA to utilize state funds to cover Medicare Part D cost sharing for those populations determined eligible (see above). The following information is designed to describe the Department’s expectations for covering cost sharing required under the Part D prescription drug benefit.

Excluded Drugs

Each Part D plan will establish and maintain its own formulary. There are excluded drugs that the Part D plans are not required to cover. These include benzodiazepines, barbiturates and certain over-the-counter drugs. AHCCCS will continue to cover these excluded drugs for dual eligible behavioral health recipients. The T/RBHAs must cover these drugs with state funds for Non-Title XIX Medicare eligible persons determined to have a serious mental illness.

Since each Part D plan establishes its own formulary and some Part D plans may choose to cover some of the excluded drugs as part of an enhanced benefit, the T/RBHAs must include any amount paid by the Medicare Part D plan when submitting an encounter to ADHS. This is necessary to ensure that the T/RBHAs are not using State funds when Federal funds could be available through a Medicare Part D plan.

Non-Covered Drugs

The Department considers a “non-covered drug” to be any drug that is not available through the Part D plan’s formulary. Drugs that can be obtained through the Part D plan via step therapy or prior authorization processes are not considered “non-covered drugs”. Non-covered drugs must be covered by the T/RBHA with State funds for dual eligibles and non-Title XIX Medicare eligible persons determined to have a serious mental illness. T/RBHAs may assist behavioral health recipients, if necessary, with requesting an exception from the Part D plan to acquire a non-covered drug through the Part D plan, but should always attempt to ensure that needed prescription drugs are available to behavioral health recipients when possible. The T/RBHAs may not use State funds to pay for prescription drugs denied by a Medicare Part D plan for other reasons, including denials due to an out-of-network provider writing the prescription or denials of formulary drugs that have been subjected to a prior authorization process through the Part D plan.

Part D Premiums

Upon request, the T/RBHAs must use State funds to pay the Medicare Part D premium for dual eligibles and non-Title XIX Medicare eligible persons determined to have a serious mental illness that are unable to make his/her Part D premium payment. Persons who are dual eligibles could be responsible for a portion of the premium if they elect a plan with a premium greater than \$24.62, which is the maximum amount that the LIS program will pay toward the premium. ADHS is allowing the use of State funds for this purpose to ensure that behavioral health recipients maintain access to prescription drug coverage through Medicare Part D.

At this time, there is no limit to the number of months that State funds can be used to pay a Part D premium. The T/RBHAs must manage the use of State funds to pay Part D premiums and may establish a limit to the amount that can be paid for a recipient each month.

Encounters for coverage of a Part D premium must be submitted on a CMS 1500 form using code S9986 (Not medically necessary covered services) and the “HW” modifier. Using code S9886 with the “HW” modifier will be limited to one unit per month, per behavioral health recipient and will allow ADHS and the T/RBHAs to identify the amount of State funds expended

for Part D premiums. Flex Funds may not be utilized to pay a behavioral health recipients' Part D premium. Premium payments must be made directly to the Part D plan.

Co-payments and Co-insurance

Behavioral health recipients eligible for the LIS program will have co-payments between \$1 and \$5, depending on income. The T/RBHA must use State funds to pay the co-payments and co-insurance for dual eligibles and non-Title XIX Medicare eligible persons determined to have a serious mental illness, but only for drugs included on the T/RBHA formulary. The T/RBHA must not utilize State funds to cover co-payments or co-insurance for drugs not included on the T/RBHA formulary. The T/RBHA must ensure that prescription benefit managers (PBMs) or other mechanisms are in place to avoid pharmacies from requesting co-payments directly from behavioral health recipients at the point of service.

Behavioral health recipients who are eligible for the LIS program, but who have income that is greater than 135% of the Federal Poverty Limit (FPL) will have co-insurance of 15% after a \$50 deductible is met up to \$5100 in drug costs. Behavioral health recipients not eligible for the LIS program will have co-insurance of 25% after the deductible of up to \$250 is met up to \$2250 in drug costs, 100% co-insurance from \$2250 up to \$5100 in drug costs, and 5% co-insurance above \$5100 in drug costs. The period in which the recipient pays 100% co-insurance is referred to as the coverage gap.

Encounters for payment of co-payments and/or co-insurance must be submitted using the Universal Pharmacy Claim Form and must include the amount paid by the T/RBHA as well as any amount paid by a Part D plan.

Deductible

The T/RBHA must pay the deductible for non-Title XIX Medicare eligible persons determined to have a serious mental illness. Title XIX eligible and Medicare Savings Program recipients will not have a deductible. Non-Title XIX Medicare eligible persons can have a deductible of up to \$250.

Encounters for payment of a deductible must be submitted using the Universal Pharmacy Claim Form and must include the amount paid by the T/RBHA as well as any amount paid by a Part D plan.

[T/RBHA Director]
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**Cost sharing for recipients eligible for the LIS program and for
recipients not eligible for the LIS Program**

Part D Cost Sharing:	LIS with income below 135% FPL	LIS with income between 135% and 150% FPL	No LIS with income above 150% FPL
Premium	\$0	Sliding Scale	\$28.08 (Arizona average)
Deductible	\$0	\$50	\$250
Co-payment	<100% FPL - \$1/\$3 ≥100% FPL - \$2/\$5	\$2/\$5	N/A
Co-insurance: Deductible amount - \$2250 in prescription drug costs	N/A	15%	25%
\$2250 – \$5100 in prescription drug costs	N/A	15%	100%
Above \$5100 in prescription drug costs	N/A	\$2/\$5 Co-pay	\$2/\$5 Co-pay or 5% of prescription drug costs, whichever is higher

ADHS greatly appreciates the T/RBHAs efforts in ensuring that behavioral health recipients maintain coverage of prescription drugs and other behavioral health services during the transition to the Medicare Part D prescription benefit. Please contact Jennifer Vehonsky, Bureau Chief of Policy, at 602-364-4674 or via electronic mail at vehonsje@azdhs.gov with any questions.

Sincerely,

Dan Wendt
Division Chief

C: ADHS/DBHS Senior Management Team
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